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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

ANNE DELANEY,	)	
Plaintiff,	)	CIVIL NO. 05-00756 SI
v.	)	STIPULATION AND ORDER OF
JO ANNE B. BARNHART,	)	REMAND
Commissioner of Social Security,	)	
Defendant.	)	

The Commissioner has notified the United States Attorney's Office that the cassette tape recording of Plaintiff's hearing has been lost. The Commissioner of Social Security has requested remand under Sentence 6 of 42 U.S.C. 405(g) in order to remand the claim to an Administrative Law Judge for a *de novo* hearing.

Pursuant to section 205(g) of the Social Security Act, 42 U.S.C. 405(g):

The court may, on motion of the Commissioner made for good cause shown before he files his answer, remand the case to the Commissioner for further action by the Commissioner .

See Melkonyan v. Sullivan, 501 U.S. 89, 101 n.2 (1991); Shalala v. Schaefer, 509 U.S. 292(1993).

The joint conference committee of Congress in reporting upon the Social Security Disability Amendments of 1980 (to the Social Security Act) stated that in some cases procedural difficulties, such as an inaudible hearing tape or a lost file, necessitate a request for remand by the Secretary. The

intent of the committee was that such procedural defects be considered "good cause" for remand.

The committee states:

Such a situation is an example of what could be considered 'good cause' for remand. Where, for example, the tape recording of the claimant's oral hearing is lost or inaudible, or cannot otherwise be transcribed, or where the claimant's files cannot be located or are incomplete, good cause would exist to remand the claim to the Secretary for appropriate action to produce a record . . . (H.R. Rep. No. 96-944, 96th Cong., 2d Sess. 59 (1980)).

Good cause having been shown, the parties agree that this action should be remanded to the Commissioner of Social Security for further proceedings as stated above. Defendant will reinstate the action in this Court when plaintiff's record is complete and/or when an administrative transcript is prepared.

Dated: June 3, 2005

/s/  
CRISOSTOMO IBARRA  
Attorney for Plaintiff

KEVIN V. RYAN  
United States Attorney

Dated: June 6, 2005

By: /s/  
SARA WINSLOW  
Assistant United States Attorney

PURSUANT TO STIPULATION, IT IS SO ORDERED that this action is remanded, pursuant to sentence six of 42 U.S.C. 405(g), to the Commissioner for further proceedings as stated above.

Dated: \_\_\_\_\_



DELANEY, REMAND STIP S6 (ss)  
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